

REMARKS

The applicants respectfully requests reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. No claims have been amended. No claims have been canceled. No claims have been added. Thus, claims 1-3, 6-15, 18-27 and 30-36 are pending.

Claim Objections

The Office Action objects to claims 4-5, 16-17, 28 and 29 under 37 C.F.R. 1.121 for presenting the text of cancelled claims. Applicants have removed the text of cancelled claims 4-5, 16-17, 28 and 29 from the Listing of Claims. Applicants request that the objection be withdrawn.

35 U.S.C. §102 Rejections

35 U.S.C. §102(e) Rejection over *Brendel*

The Office Action rejects claims 1, 6-7, 9-10, 13, 18-19, 21-22, 25, 30-31, 33 and 34 under 35 U.S.C. §102(e) as being anticipated by *Brendel*, US Patent Number 6,772,333 B1 (*Brendel*). Regarding claims 1, 6-7, 13, 18-19, 25, 30 and 31, *Brendel* is alleged in the Office Action to imply that the client request is encapsulated and forwarded to the assigned server by the load balancer. Anticipation under 35 U.S.C. §102(e) requires a showing that each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference, MPEP §2131. This single prior art reference must show the identical invention in as complete detail as is contained in the rejected claim, *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). For at least the following reasons, Applicants traverse this rejection.

Independent claims 1, 13 and 25 each recite in a salient portion (emphasis added):

“...**encapsulating** the received data packet in a flow header...;

transmitting the flow header **with** the received data packet to a destination...”

To anticipate any one of claims 1, 13 and 25, *Brendel* must at least inherently disclose that the flow header and the received data packet it encapsulates is transmitted to the destination if no session identity exists. The Office Action alleges that *Brendel* merely implies this limitation, specifically by returning a server-provided session ID “as part of a response to the encrypted client request” (col. 10, line 11). Applicants submit that nothing contained in *Brendel* inherently discloses transmission of the flow header and the received data packet it encapsulates to the destination if no session identity exists. *Brendel* **neither** describes how the server-provided session ID is returned or prompted, **nor** provides any description of “part of a response to the encrypted client request.” In failing to describe this request response, *Brendel* is **silent** as to having a packet/header combination transmitted to the destination when no session identity exists. Consequently, *Brendel* does not show the identical invention in as complete detail as is contained in the rejected claim(s), as required under *Richardson v. Suzuki Motor Co.*

In light of the foregoing discussion, *Brendel* fails to teach at least one limitation in each of claims 1, 13 and 25. In depending directly or indirectly from one of independent claims 1, 13 and 25, each of claims 6-7, 18-19, 30 and 31 incorporates at least one limitation not disclosed in *Brendel*. Accordingly, Applicants request that the 35 U.S.C. §102(e) rejection of claims 1, 6-7, 13, 18-19, 25, 30 and 31 based on *Brendel* be withdrawn.

In rejecting claims 9-10, 21-22, 33 and 34, the Office Action again relies on the interpretation of *Brendel* discussed above. Again the Office Action alleges that *Brendel* implies the encapsulation of the received data packet by the flow header, as set forth in the rejected claims. This alleged implication is based on *Brendel* returning a server-provided session ID “as part of a response to the encrypted client request” (col. 10, line 11). For at least the following reasons, Applicants traverse this rejection.

Independent claims 9, 21 and 33 each recite in a salient portion (emphasis added):

“...**encapsulating** the received data packet in a flow header...”

To anticipate any one of claims 9, 21 and 33, *Brendel* must inherently or explicitly disclose the encapsulation the received data packet by the flow header, MPEP §2131. Applicants reiterate that nothing contained in *Brendel* inherently discloses encapsulating the received data packet in a flow header. As in the foregoing discussion, the request response of *Brendel* col. 10, line 11 is simply not described, particularly with regard to how the server-provided session ID is returned or prompted. In failing to describe this request response, *Brendel* is **silent** as to the encapsulation of a data packet by a flow header. Consequently, *Brendel* does not show the identical invention in as complete detail as is contained in the rejected claim(s), as required under *Richardson v. Suzuki Motor Co.* Applicants further submit that the Office Action incorrectly relies on an implied disclosure standard without explaining how transmission of a packet/header combination is inherently or explicitly part of the disclosure in *Brendel*.

In light of the foregoing discussion, *Brendel* fails to teach at least one limitation in each of claims 9, 21 and 33. In depending directly or indirectly from one of independent claims 9, 21 and 33, each of claims 10, 22 and 34 incorporates at least one limitation not disclosed in *Brendel*. Accordingly,

Applicants request that the 35 U.S.C. §102(e) rejection of claims 9-10, 21-22, 33 and 34 based on *Brendel* be withdrawn.

35 U.S.C. §103(a) Rejections

35 U.S.C. §103(a) Rejection over *Brendel*

The Office Action rejects claims 2-3, 14-15, 26 and 27 under 35 U.S.C. §103(a) as being unpatentable over *Brendel* in view of *Tal et al.*, US Patent Number 6,625,612 B1 (*Tal*). Although not directly stated, these obviousness rejections seem to follow from the 35 U.S.C. §102(e) rejection over *Brendel* of parent claims 1, 13 and 25. The Office Action further alleges that *Brendel* discloses a search table for finding session IDs using address information, and that *Tal* discloses the deriving of a session ID from address information. For purposes of a complete response, Applicants will treat these rejections as following from the foregoing 35 U.S.C. §102(e) rejections over *Brendel*. For at least the following reasons, Applicants traverse this rejection.

To overcome a §103(a) rejection, Applicants may demonstrate that there is at least one limitation in the rejected claim which is not taught or suggested by any combination of the cited references. As discussed above, independent claims 1, 13 and 25 each discloses transmission of the flow header and the received data packet it encapsulates to the destination if no session identity exists. Applicants submit that *Brendel* does not inherently or explicitly disclose this limitation, and cite the foregoing discussion of the §102(e) rejections over *Brendel*. In depending directly or indirectly from one of independent claims 1, 13 and 25, claims 2-3, 14-15, 26 and 27 each incorporate at least one limitation not disclosed by *Brendel*. Neither *Brendel* nor *Tal* are offered in the Office Action as further teaching, nor do they teach or suggest, the limitations otherwise undisclosed by *Brendel* alone as a 35 U.S.C. §102(e) reference.

Therefore each of claims 2-3, 14-15, 26 and 27 contains at least one limitation which is not taught by any combination of the cited references. Accordingly, Applicants request that the 35 U.S.C. §103(a) rejection of claims 2-3, 14-15, 26 and 27 based on *Brendel* and *Tal* be withdrawn.


CONCLUSION

For at least the foregoing reasons, Applicants submit that the objections and rejections have been overcome. Therefore, claims 1-3, 6-15, 18-27 and 30-36 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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